

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No. 2511 of 2005

Between:

P.V.Ramanamurthy, S/o.late Satyanarayana Murthy,

Aged 60 years, R/o. 402, Rithvik Enclave, near Screw Bridge,

Patamatalanka, Vijayawada, Krishna District

..... PETITIONER

AND

The Mandal Revenue Officer,

P.Gannavaram Mandal

East Godavari District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction one in the nature of writ of Mandamus declaring the action of the Respondents in not restoring the possession of the land Acres 2.07 cents in Survey No.364/1, 364/2 & 365/3 belongs to the petitioner from an extent of Ac.38.82 cents of zeroyathi private land of Manepalli village as illegal, arbitrary and discriminatory violative of Article 14, 16 and 21 of the Constitution of India and further declare that the petitioner is entitled for possession of land to an extent of Ac.2.07 cents in Survey No.364/1, 364/2 & 365/3 situated at Manepally village P.Gannavaram Mandal, East Godavari District.

Counsel for the Petitioner: MR.M.SURENDER RAO

Counsel for the Respondent: GP FOR REVENUE

The Court at the stage of admission made the following:

ORDER:

-

This petition is filed seeking restoration of possession of Ac.2.07 cents in Sy.No.364/1, 364/2 and 365/3 on the ground that respondent in his Counter affidavit in C.C.No.813 of 2004 in W.A.No.1068 of 2002 admitted that Ac.2.07 cents in the above survey numbers belongs to the petitioner and does not belong to petitioners in W.P.No.19254 of 2000.

Even as per the affidavit of the petitioner, he is entitled to an undivided Ac.2.07 cents in Ac.4.14 cents in Sy.Nos.364/1, 364/2 and 365/3 of Manepalli a lanka between Godavari river and the flood bank.

From para-3 of the counter affidavit filed by the respondent in C.C.No.813 of 2004 in W.A.No.1068 of 2002, (which counter affidavit is being relied on by the petitioner to buttress his case) it is stated that All Caste Field Labour Cooperative Society filed W.P.No.19254 of 2000 for not dispossessing it from Ac.82.19 cents of Manepally village, which was disposed of by a learned single Judge with a direction to the respondent to consider the application of the petitioner in that W.P.No.19254 of 2000, if filed by the said Society, and that in the meanwhile status quo has to be maintained. Aggrieved thereby petitioner filed W.A.No.1068 of 2002. That W.A. was disposed of with the following observations:

“It is needless to observe that the disposal of representation by the Mandal

Revenue Officer shall have its own bearing on the order of status quo directed to be maintained by this Court. No further directions as such are required to be passed in this Appeal”

Alleging that respondent violated the above said order in W.A.No.1068 of 2002 petitioner filed C.C.No.813 of 2004. Copy of the order dated 20.08.2004 passed in C.C.No.812 of 2004, produced by the petitioner shows that the survey conducted revealed that only Ac.52.05 cents belongs to Government and the rest of Ac.38.82 cents is zeroyathi private land of different individuals.

From the above facts it is seen that All Castes Field Labour Cooperative Society is claiming possession over Ac.82.19 cents though the Government land is only Ac.52.05 cents. So it is clear that the said Cooperative Society had encroached into the private patta land of others. Obviously petitioner without taking recourse to proceeding in civil Court for recovery of possession from the encroachers approached this Court by way of this petition seeking a direction to the respondent to put him in possession of his land which is in occupation of others. Such relief cannot be granted by this Court exercising jurisdiction under Article 226 of the Constitution. The remedy, if any, of the petitioner is to approach a Civil Court for the relief recovery of possession sought in this Writ Petition.

Therefore, the Writ Petition is dismissed. No order as to costs.

Dated: 15.02.2005

Note:

Issue CC in two days

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Mandal Revenue Officer,
P.Gannavaram Mandal,

East Godavari District

2. Two CCs to the Government Pleader
for Revenue, High Court Buildings,
Hyderabad (OUT)

3. Two CD copies